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west virginia department of environmental protection

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Division of Water and Waste Management  
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Charleston, WV 25304  
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Earl Ray Tomblin, Governor  
Randy C. Huffman, Cabinet Secretary  
[www.dep.wv.gov](http://www.dep.wv.gov)

**CONSENT ORDER  
ISSUED UNDER THE  
WATER POLLUTION CONTROL ACT  
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

TO: Logan County Board of Education  
John Brennan, Treasurer  
Box 477, 506 Holly Avenue  
Logan, WV 25601

DATE: August 25, 2015

ORDER NO.: 8102

**INTRODUCTION**

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter "Director"), under the authority of West Virginia Code, Chapter 22, Article 11, Section 1 et seq. to Logan County Board of Education (hereinafter "Logan BOE").

**FINDINGS OF FACT**

In support of this Order, the Director hereby finds the following:

1. Logan BOE operates a sewage treatment facility located in Logan County, West Virginia. Logan BOE was reissued WV/NPDES Water Pollution Control Permit No. WV0103110, Registration Number WVG551094, on February 16, 2011. This facility serves the Ralph R. Willis Vo-Tech School.
2. On August 24, 2015, West Virginia Department of Environmental Protection (WVDEP) personnel conducted a review of facility records from the time period of the 1<sup>st</sup> Quarter of 2012 through the 2<sup>nd</sup> Quarter of 2015. During this review, the following violations of the terms and conditions of Logan BOE's WV/NPDES permit were observed:
  - a. Section A.1 – Eighteen (18) exceedances of Logan BOE's permit parameters were observed and documented (Table One). These exceedances can be further defined as:
    - i. Minor violations-ten (10)
    - ii. Moderate violations-seven (7)

Promoting a healthy environment.

- iii. Major violations-one (1)
  - b. Section B.2-The permittee failed to submit the following Discharge Monitoring Reports (DMRs) within twenty (20) days after the reporting period: the 4<sup>th</sup> quarter of 2011.
3. Logan BOE operates a sewage treatment facility located in Logan County, West Virginia. Logan BOE was reissued WV/NPDES Water Pollution Control Permit No. WV0103110, Registration Number WVG551097, on February 21, 2011. This facility serves Omar Jr High and Elementary School.
4. On August 24, 2015, WVDEP personnel conducted a review of facility records from the time period of the 1<sup>st</sup> Quarter of 2012 through the 2<sup>nd</sup> Quarter of 2015. During this review, the following violations of the terms and conditions of Logan BOE's WV/NPDES permit were observed:
  - a. Section A.1 - Thirteen (13) exceedances of Logan BOE's permit parameters were observed and documented (Table Two). These exceedances can be further defined as:
    - i. Minor violations-six (6)
    - ii. Moderate violations-three (3)
    - iii. Major violations-four (4)
5. Logan BOE operates a sewage treatment facility located in Logan County, West Virginia. Logan BOE was reissued WV/NPDES Water Pollution Control Permit No. WV0103110, Registration Number WVG551100, on February 16, 2011. This facility serves Hugh Dingess Elementary School.
6. On August 24, 2015, WVDEP personnel conducted a review of facility records from the time period of the 1<sup>st</sup> Quarter of 2012 through the 2<sup>nd</sup> Quarter of 2015. During this review, the following violations of the terms and conditions of Logan BOE's WV/NPDES permit were observed:
  - a. Section A.1 – Fifty-five (55) exceedances of Logan BOE's permit parameters were observed and documented (Table Three). These exceedances can be further defined as:
    - i. Minor violations-fifteen (15)
    - ii. Moderate violations-twenty-nine (29)
    - iii. Major violations-eleven (11)
7. Logan BOE operates a sewage treatment facility located in Logan County, West Virginia. Logan BOE was reissued WV/NPDES Water Pollution Control Permit No. WV0103110, Registration Number WVG551259, on February 16, 2011. This facility serves Man K-8 School.
8. On August 24, 2015, WVDEP personnel conducted a review of facility records from the time period of the 1<sup>st</sup> Quarter of 2012 through the 2<sup>nd</sup> Quarter of 2015. During this review, the following violations of the terms and conditions of Logan BOE's WV/NPDES permit were observed:

- a. Section A.1 – Forty-one (41) exceedances of Logan BOE’s permit parameters were observed and documented (Table Four). These exceedances can be further defined as:
  - i. Minor violations-fifteen (15)
  - ii. Moderate violations-eighteen (18)
  - iii. Major violations-eight (8)
9. Logan BOE operates a sewage treatment facility located in Logan County, West Virginia. Logan BOE was reissued WV/NPDES Water Pollution Control Permit No. WV0103110, Registration Number WVG551308, on February 21, 2011. This facility serves Holden Grade School.
10. On August 24, 2015, WVDEP personnel conducted a review of facility records from the time period of the 1<sup>st</sup> Quarter of 2012 through the 2<sup>nd</sup> Quarter of 2015. During this review, the following violations of the terms and conditions of Logan BOE’s WV/NPDES permit were observed:
  - a. Section A.1 – Eighteen (18) exceedances of Logan BOE’s permit parameters were observed and documented (Table Five). These exceedances can be further defined as:
    - i. Minor violations-eight (8)
    - ii. Moderate violations-five (5)
    - iii. Major violations-five (5)
11. On July 30, 2014 and October 2, 2014, representatives of WVDEP and Logan BOE met to discuss the terms and conditions of this Order.
12. On August 19, 2015, in correspondence to WVDEP, Logan BOE represented that the following actions had been taken in response to the aforementioned violations:
  - a. Plant are being serviced on a more regular basis.
  - b. The underutilized plant at Monaville was replaced with a septic system.
  - c. An experienced plant operator was secured.
  - d. Principals and custodians were trained regarding proper disposal of chemicals.
  - e. Plants are being properly chlorinated and dechlorinated.
  - f. Plants are being pumped, as necessary.

### **ORDER FOR COMPLIANCE**

Now, therefore, in accordance with Chapter 22, Article 11, Section 1 et seq. of the West Virginia Code, it is hereby agreed between the parties, and ORDERED by the Director:

1. Logan BOE shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit.

2. Within thirty (30) days of the effective date of this Order, Logan BOE shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Logan BOE will achieve compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules. The plan of corrective action shall make reference to WV/NPDES Permit No. WV0103110 Registration Nos. WVG551094, WVG551097, WVG551100, WVG551259, and WVG551308 and Order No. 8102. The plan of corrective action shall be submitted to:

**WVDEP Environmental Inspector Supervisor  
SW Regional Environmental Enforcement Office  
PO Box 662  
Teays, WV 25569**

A copy of this plan shall be submitted to:

**Chief Inspector  
Environmental Enforcement - Mail Code #031328  
WVDEP  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304**

Upon approval, the plan of corrective action and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable plan of corrective action and schedule or failure to adhere to the approved schedule is a violation of this Order.

3. Because of Logan BOE's permit violations, Logan BOE shall be assessed a civil administrative penalty of twenty-four thousand seven hundred eighty dollars (\$24,780) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund within thirty (30) days of the effective date of this Order. Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall include a reference to the Order No. and shall be mailed to:**

**Chief Inspector  
Environmental Enforcement - Mail Code #031328  
WV-DEP  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304**

### **OTHER PROVISIONS**

1. Logan BOE hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 11, Section 21 of the Code of West Virginia. Under this Order, Logan BOE agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Logan BOE does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Logan BOE other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, Logan BOE shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Logan BOE becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Logan BOE shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Logan BOE intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Logan BOE (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.
4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Logan BOE of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Logan BOE to additional penalties and injunctive relief in accordance with the applicable law.
5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on Logan BOE, its successors and assigns.

7. This Order shall terminate upon Logan BOE's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.

  
John Brennan, Treasurer  
Logan County Board of Education

9/11/2015  
Date

Public Notice begin:

\_\_\_\_\_  
Date

Public Notice end:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Scott G. Mandirola, Director  
Division of Water and Waste Management

\_\_\_\_\_  
Date

**RECEIVED**

SEP 14 2015

ENVIRONMENTAL  
ENFORCEMENT

Table One: Logan BOE DMR Exceedance Summary - WVG551094 - Ralph R. Willis Vo-Tech

Outlet 001 DMR Exceedances - AVG. MONTHLY - 1st Quarter 2012 - 2nd Quarter 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
Dec 2012	BOD5	mg/l	30	47	57%	-	X	-
March 2013	BOD5	mg/l	30	36	20%	X	-	-
March 2013	Total Suspended Solids	mg/l	30	102	240%	-	X	-
June 2013	Fecal Coliform	cnts/100ml	200	210	5%	X	-	-
Sept 2013	Total Suspended Solids	mg/l	30	50	67%	-	X	-
Sept 2013	Fecal Coliform	cnts/100ml	200	510	155%	-	X	-
Dec 2013	Total Suspended Solids	mg/l	30	154	413%	-	-	X
March 2014	Total Suspended Solids	mg/l	30	36	20%	X	-	-
Sept 2014	Total Suspended Solids	mg/l	30	37.5	25%	X	-	-
Dec 2014	Total Suspended Solids	mg/l	30	33	10%	X	-	-
Dec 2014	BOD5	mg/l	30	38	27%	X	-	-
March 2015	BOD5	mg/l	30	49	63%	-	X	-

Outlet 001 DMR Exceedances - MAX. DAILY - 1st Quarter 2012 - 2nd Quarter 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
March 2013	Total Suspended Solids	mg/l	60	102	70%	X	-	-
Sept 2013	Fecal Coliform	cnts/100ml	400	510	28%	X	-	-
Dec 2013	Total Suspended Solids	mg/l	60	154	157%	-	X	-

Outlet 001 DMR Exceedances - INSTANTANEOUS. MAX. - 1st Quarter 2012 - 2nd Quarter 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
March 2013	Total Suspended Solids	mg/l	75	102	36%	X	-	-
Sept 2013	Fecal Coliform	cnts/100ml	500	510	2%	X	-	-
Dec 2013	Total Suspended Solids	mg/l	75	154	105%	-	X	-

Outlet 001 Totals						Degree of non-compliance		
						Min	Mod	Maj
						10	7	1

Table Two: Logan BOE DMR Exceedance Summary - WVG551097 - Omar Junior High and Elementary

Outlet 001 DMR Exceedances - AVG. MONTHLY -1st Quarter 2012 - 2nd Quarter 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
March 2012	Total Suspended Solids	mg/l	30	107	257%	-	X	-
Sept 2012	Fecal Coliform	cnts/100ml	200	210	5%	X	-	-
March 2013	BOD 5	mg/l	30	35	17%	X	-	-
March 2013	Total Suspended Solids	mg/l	30	38	27%	X	-	-
March 2013	Fecal Coliform	cnts/100ml	200	4800	2300%	-	-	X
Dec 2013	Total Suspended Solids	mg/l	30	252	740%	-	-	X
Dec 2013	Fecal Coliform	cnts/100ml	200	280	40%	X	-	-

Outlet 001 DMR Exceedances - MAX. DAILY - 1st Quarter 2012 - 2nd Quarter 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
March 2012	Total Suspended Solids	mg/l	60	107	78%	X	-	-
March 2013	Fecal Coliform	cnts/100ml	400	4800	1100%	-	-	X
Dec 2013	Total Suspended Solids	mg/l	60	252	320%	-	X	-

Outlet 001 DMR Exceedances - INSTANTANEOUS. MAX. - 1st Quarter 2012 - 2nd Quarter 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
March 2012	Total Suspended Solids	mg/l	75	107	43%	X	-	-
March 2013	Fecal Coliform	cnts/100ml	500	4800	860%	-	-	X
Dec 2013	Total Suspended Solids	mg/l	75	252	236%	-	X	-

Outlet 001 Totals		Degree of non-compliance		
		Min	Mod	Maj
		6	3	4

Table Three: Logan BOE DMR Exceedance Summary - WVG551100 - Hugh Dingess Elementary

Outlet 001 DMR Exceedances - AVG. MONTHLY - 1st Quarter 2012 - 2nd Quarter 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
March 2012	BOD5	mg/l	10	52	420%	-	-	X
March 2012	Total Ammonia Nitrogen	mg/l	6	19.2	220%	-	X	-
June 2012	BOD5	mg/l	5	16	220%	-	X	-
June 2012	Fecal Coliform	cnts/100ml	200	5100	2450%	-	-	X
Sept 2012	BOD5	mg/l	5	12	140%	-	X	-
Sept 2012	Total Ammonia Nitrogen	mg/l	3	21.5	617%	-	-	X
Sept 2012	Fecal Coliform	cnts/100ml	200	600	200%	-	X	-
Dec 2012	BOD5	mg/l	10	41	310%	-	-	X
March 2013	BOD5	mg/l	10	40	300%	-	X	-
March 2013	Total Ammonia Nitrogen	mg/l	6	31.1	418%	-	-	X
June 2013	BOD5	mg/l	5	13	160%	-	X	-
March 2014	BOD5	mg/l	10	13	30%	X	-	-
March 2014	Total Ammonia Nitrogen	mg/l	6	43	617%	-	-	X
June 2014	BOD5	mg/l	5	19	280%	-	X	-
June 2014	Total Suspended Solids	mg/l	30	103	243%	-	X	-
June 2014	Fecal Coliform	cnts/100ml	200	1140	470%	-	-	X
March 2015	Total Ammonia Nitrogen	mg/l	6	11.3	88%	-	X	-
June 2015	BOD5	mg/l	5	8	60%	-	X	-

Outlet 001 DMR Exceedances - MAX. DAILY - 1st Quarter 2012 - 2nd Quarter 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
March 2012	BOD5	mg/l	20	52	160%	-	X	-
March 2012	Total Ammonia Nitrogen	mg/l	12	19.2	60%	-	X	-
June 2012	BOD5	mg/l	10	16	60%	-	X	-
June 2012	Fecal Coliform	cnts/100ml	400	5100	1175%	-	-	X
Sept 2012	BOD5	mg/l	10	12	20%	X	-	-
Sept 2012	Total Ammonia Nitrogen	mg/l	6	21.5	258%	-	X	-
Sept 2012	Fecal Coliform	cnts/100ml	400	600	50%	-	X	-
Dec 2012	BOD5	mg/l	20	41	105%	-	X	-
March 2013	BOD5	mg/l	20	40	100%	-	X	-
March 2013	Total Ammonia Nitrogen	mg/l	12	31.1	159%	-	X	-
June 2013	BOD5	mg/l	10	13	30%	X	-	-
March 2014	Total Ammonia Nitrogen	mg/l	12	43	258%	-	X	-
June 2014	BOD5	mg/l	10	19	90%	-	X	-
June 2014	Total Suspended Solids	mg/l	60	103	72%	-	X	-
June 2014	Fecal Coliform	cnts/100ml	400	1140	185%	-	X	-

Outlet 001 DMR Exceedances - INSTANTANEOUS. MAX. - 1st Quarter 2012 - 2nd Quarter 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
March 2012	BOD5	mg/l	25	52	108%	-	X	-
March 2012	Total Ammonia Nitrogen	mg/l	15	19.2	28%	X	-	-
June 2012	BOD5	mg/l	12.5	16	28%	X	-	-
June 2012	Fecal Coliform	cnts/100ml	500	5100	920%	-	-	X
Sept 2012	Total Ammonia Nitrogen	mg/l	7.5	21.5	187%	-	X	-
Sept 2012	Fecal Coliform	cnts/100ml	500	600	20%	X	-	-
Dec 2012	BOD5	mg/l	25	41	64%	X	-	-
March 2013	BOD5	mg/l	25	40	60%	X	-	-
March 2013	Total Ammonia Nitrogen	mg/l	15	31.1	107%	-	X	-
June 2013	BOD5	mg/l	12.5	13	4%	X	-	-
March 2014	Total Ammonia Nitrogen	mg/l	15	43	187%	-	X	-
June 2014	BOD5	mg/l	12.5	19	52%	X	-	-
June 2014	Total Suspended Solids	mg/l	75	103	37%	X	-	-
June 2014	Fecal Coliform	cnts/100ml	500	1140	128%	-	X	-

Outlet 001 DMR Exceedances - D.O. INSTANTANEOUS. MIN. - 1st Quarter 2012 - 2nd Quarter 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted min. daily	Reported min. daily	% Exceedance	Min	Mod	Maj
March 2012	D.O.	mg/l	6.0	1.5	75.0%	-	-	X
Sept 2012	D.O.	mg/l	6.0	4.2	30.0%	X	-	-
March 2013	D.O.	mg/l	6.0	4.1	31.7%	X	-	-
June 2013	D.O.	mg/l	6.0	4	33.3%	-	X	-
Sept 2013	D.O.	mg/l	6.0	5.6	6.7%	X	-	-
Dec 2013	D.O.	mg/l	6.0	1.6	73.3%	-	-	X
March 2014	D.O.	mg/l	6.0	2.7	55.0%	-	X	-
Dec 2014	D.O.	mg/l	6.0	5.7	5.0%	X	-	-

Outlet 001 Totals		Degree of non-compliance		
		Min	Mod	Maj
		15	29	11

Table Four: Logan BOE DMR Exceedance Summary - WVG551259 - Man K-8

Outlet 001 DMR Exceedances - AVG. MONTHLY - 1st Quarter 2012 - 2nd Quarter 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
June 2012	Total Suspended Solids	mg/l	30	87	190%	-	X	-
Sept 2012	Total Suspended Solids	mg/l	30	39	30%	X	-	-
Dec 2012	Total Suspended Solids	mg/l	30	59	97%	-	X	-
Dec 2012	BOD5	mg/l	30	52	73%	-	X	-
March 2013	Total Suspended Solids	mg/l	30	55	83%	-	X	-
June 2013	Total Suspended Solids	mg/l	30	290	867%	-	-	X
June 2013	Fecal Coliform	cnts/100ml	200	3500	1650%	-	-	X
June 2013	BOD5	mg/l	30	70	133%	-	X	-
Sept 2013	Total Suspended Solids	mg/l	30	94	213%	-	X	-
Sept 2013	Fecal Coliform	cnts/100ml	200	3300	1550%	-	-	X
Sept 2013	BOD5	mg/l	30	66	120%	-	X	-
Dec 2013	Total Suspended Solids	mg/l	30	65	117%	-	X	-
Dec 2013	Fecal Coliform	cnts/100ml	200	673	237%	-	X	-
Dec 2013	BOD5	mg/l	30	52	73%	-	X	-
March 2014	BOD5	mg/l	30	66	120%	-	X	-
March 2014	Total Suspended Solids	mg/l	30	104	247%	-	X	-
March 2014	Fecal Coliform	cnts/100ml	200	3000	1400%	-	-	X
June 2014	Total Suspended Solids	mg/l	30	41	37%	X	-	-
Sept 2014	Total Suspended Solids	mg/l	30	324	980%	-	-	X

Outlet 001 DMR Exceedances - MAX. DAILY - 1st Quarter 2012 - 2nd Quarter 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
June 2012	Total Suspended Solids	mg/l	60	87	45%	X	-	-
June 2013	Total Suspended Solids	mg/l	60	290	383%	-	X	-
June 2013	Fecal Coliform	cnts/100ml	400	3500	775%	-	-	X
June 2013	BOD5	mg/l	60	70	17%	X	-	-
Sept 2013	Total Suspended Solids	mg/l	60	94	57%	X	-	-
Sept 2013	Fecal Coliform	cnts/100ml	400	3300	725%	-	-	X
Sept 2013	BOD5	mg/l	60	66	10%	X	-	-
Dec 2013	Total Suspended Solids	mg/l	60	65	8%	X	-	-
Dec 2013	Fecal Coliform	cnts/100ml	400	673	68%	X	-	-
March 2014	BOD5	mg/l	60	66	10%	X	-	-
March 2014	Total Suspended Solids	mg/l	60	104	73%	X	-	-
March 2014	Fecal Coliform	cnts/100ml	400	3000	650%	-	-	X
June 2014	Flow	mgd	0.0056	0.0057	2%	X	-	-
Sept 2014	Total Suspended Solids	mg/l	60	324	440%	-	X	-

Outlet 001 DMR Exceedances - INSTANTANEOUS. MAX. -1st Quarter 2012 - 2nd Quarter 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
June 2012	Total Suspended Solids	mg/l	75	87	16%	X	-	-
June 2013	Total Suspended Solids	mg/l	75	290	287%	-	X	-
June 2013	Fecal Coliform	cnts/100ml	500	3500	600%	-	X	-
Sept 2013	Total Suspended Solids	mg/l	75	94	25%	X	-	-
Sept 2013	Fecal Coliform	cnts/100ml	500	3300	560%	-	X	-
Dec 2013	Fecal Coliform	cnts/100ml	500	673	35%	X	-	-
March 2014	Total Suspended Solids	mg/l	75	104	39%	X	-	-
March 2014	Fecal Coliform	cnts/100ml	500	3000	500%	-	X	-

Outlet 001 Totals		Degree of non-compliance		
		Min	Mod	Maj
		15	18	8

Table Five: Logan BOE DMR Exceedance Summary - WVG551308 - Holden Grade

Outlet 001 DMR Exceedances - AVG. MONTHLY - 1st Quarter 2012 - 2nd Quarter 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
March 2013	Total Suspended Solids	mg/l	30	35	17%	X	-	-
June 2013	Total Suspended Solids	mg/l	30	106	253%	-	X	-
June 2013	Fecal Coliform	cnts/100ml	200	3300	1550%	-	-	X
Sept 2013	Fecal Coliform	cnts/100ml	200	6000	2900%	-	-	X
Dec 2013	Total Suspended Solids	mg/l	30	67	123%	-	X	-
Dec 2013	Fecal Coliform	cnts/100ml	200	600	200%	-	X	-
June 2014	Total Suspended Solids	mg/l	30	35	17%	X	-	-
March 2015	BOD5	mg/l	30	54	80%	-	X	-
March 2015	Total Suspended Solids	mg/l	30	31	3%	X	-	-

Outlet 001 DMR Exceedances - MAX. DAILY - 1st Quarter 2012 - 2nd Quarter 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
June 2013	Total Suspended Solids	mg/l	60	106	77%	X	-	-
June 2013	Fecal Coliform	cnts/100ml	400	3300	725%	-	-	X
Sept 2013	Fecal Coliform	cnts/100ml	400	6000	1400%	-	-	X
Dec 2013	Total Suspended Solids	mg/l	60	67	12%	X	-	-
Dec 2013	Fecal Coliform	cnts/100ml	400	600	50%	X	-	-

Outlet 001 DMR Exceedances - INSTANTANEOUS. MAX. - 1st Quarter 2012 - 2nd Quarter 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
June 2013	Total Suspended Solids	mg/l	75	106	41%	X	-	-
June 2013	Fecal Coliform	cnts/100ml	500	3300	560%	-	X	-
Sept 2013	Fecal Coliform	cnts/100ml	500	6000	1100%	-	-	X
Dec 2013	Fecal Coliform	cnts/100ml	500	600	20%	X	-	-

Outlet 001 Totals		Degree of non-compliance		
		Min	Mod	Maj
		8	5	5

## Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party:

Logan County BOE

Receiving Stream:

Guyandotte River, Harts Creek,  
Main Island Creek, Huff Creek,  
Cooper's Mine Fork

Treatment System Design Maximum Flow:                      MGD

Treatment System Actual Average Flow: 0.00251 MGD (if known)

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#												
			2ai	2aii	2aiii	4ai	4aii	4aiii	6ai	6aii	6aiii	8ai	8aii	8aiii	10ai
a)	Amount of Pollutant Released	1 to 3	1	1	1	1	1	1	1	1	1	1	1	1	1
b)	Toxicity of Pollutant	0 to 3	1	1	1	1	1	1	1	1	1	1	1	1	1
c)	Sensitivity of the Environment	0 to 3	1	1	1	1	1	1	1	1	1	1	1	1	1
d)	Length of Time	1 to 3	1	1	1	1	1	1	1	1	1	1	1	1	1
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1	1	1	1	1	1	1	1	1	1	1
<b>Average Potential for Harm Factor</b>			1	1	1	1	1	1	1	1	1	1	1	1	1
2)	<b>Extent of Deviation Factor</b>	<b>Factor Range</b>													
	Degree of Non-Compliance	1 to 3	1	2	3	1	2	3	1	2	3	1	2	3	1

**Potential for Harm Factors:**

- 1)c - Sensitivity of the Environment Potentially Affected (0 for "dead" stream)
- 1)d - Length of Time of Violation
- 1)e - Actual Human/Environmental Exposure and Resulting Effects thereon

**Examples/Guidance:**

**Note:** Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

Minor = exceedance of permit limit by <=40% for Avg. Monthly or <=100% for Daily Max., exceed numeric WQ standard by <= 100%, or report doesn't contain some minor information.

Moderate = exceedance of permit limit by >= 41% and <= 300% for Avg. Monthly, >= 101% and <= 600% for Daily Max., exceed numeric WQ standard by >= 101% and <= of 600% or report doesn't fully address intended subject matter.

Major = exceedance of permit limit by >= 301% for Avg. Monthly, >= 601% for Daily Max., exceed numeric WQ standard by >= 601%, failure to submit a report, failure to obtain a permit, failure to report a spill, etc. Note that a facility in SNC should be rated as major for length of time and degree of non-compliance.

Narrative WQ standard violations - case-by-case.



		Extent of Deviation from Requirement		
		Major	Moderate	Minor
Potential for Harm to Human Health or the Environment	Major	\$8,000 to \$10,000	\$6,000 to \$8,000	\$5,000 to \$6,000
	Moderate	\$4,000 to \$5,000	\$3,000 to \$4,000	\$2,000 to \$3,000
	Minor	\$1,500 to \$2,000	\$1,000 to \$1,500	Up to \$1,000

FOF #	Potential for Harm	Extent of Deviation	Penalty	Multiple Factor	Base Penalty
2ai	Minor	Minor	\$1,000	5	\$5,000
2aai	Minor	Moderate	\$1,500	4	\$6,000
2aiii	Minor	Major	\$2,000	1	\$2,000
4ai	Minor	Minor	\$1,000	1	\$1,000
4aai	Minor	Moderate	\$1,500	1	\$1,500
4aiii	Minor	Major	\$2,000	1	\$2,000
6ai	Minor	Minor	\$1,000	3	\$3,000
6aai	Minor	Moderate	\$1,500	9	\$13,500
6aiii	Minor	Major	\$2,000	3	\$6,000
8ai	Minor	Minor	\$1,000	8	\$8,000
8aai	Minor	Moderate	\$1,500	8	\$12,000
8aiii	Minor	Major	\$2,000	5	\$10,000
10ai	Minor	Minor	\$1,000	4	\$4,000
10aai	Minor	Moderate	\$1,500	3	\$4,500
10aiii	Minor	Major	\$2,000	2	\$4,000
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
<b>Total Base Penalty</b>					<b>\$82,500</b>

## Penalty Adjustment Factors (pursuant to 47CSR1-6.2)

### Penalty Adjustment Factor

6.2.b.1 - Degree of or absence of willfulness and/or negligence - 0% to 30% increase  
 6.2.b.4 - Previous compliance/noncompliance history - 0% to 100% increase - based upon review of last three (3) years - Warning = maximum of 5% each, N.O.V. = maximum of 10% each, previous Order = maximum of 25% each - Consistent DMR violations for <1 year = 10% maximum, for >1 year but <2 years = 20% maximum, for >2 years but <3 years = 30% maximum, for >3 years = 40 % maximum

6.2.b.6 - Economic benefits derived by the responsible party (increase to be determined)

6.2.b.7 - Public Interest (increase to be determined)

6.2.b.8 - Loss of enjoyment of the environment (increase to be determined)

6.2.b.9 - Staff investigative costs (increase to be determined)

6.2.b.10 - Other factors

**Size of Violator: 0 - 50% decrease**

**NOTE:** This factor is not available to discharges that are causing a water quality violation. This factor does not apply to a commercial or industrial facility that employees or is part of a corporation that employees more than 100 individuals.

Avg. Daily WW Discharge Flow (gpd)	% Reduction Factor
< 5,000	50
5,000 to 9,999	40
10,000 to 19,999	30
20,000 to 29,999	20
30,000 to 39,999	10
40,000 to 99,999	5
> 100,000	0

**Additional Other factors to be determined for increases or decreases on a case-by-case basis.**

Public Notice Costs (cost for newspaper advertisement)

6.2.b.2 - Good Faith - 10% decrease to 10% increase

6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease

6.2.b.5 - Ability to pay a civil penalty - 0% to 100% decrease

## Base Penalty Adjustments

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor	% Increase	% Decrease	Base Penalty Adjustments
6.2.b.1 - Willfulness and/or negligence -			\$0
6.2.b.4 - Compliance/noncompliance history			\$0
6.2.b.6 - Economic benefits - (flat monetary increase)			\$0
6.2.b.7 - Public Interest - (flat monetary increase)			\$0
6.2.b.8 - Loss of enjoyment - (flat monetary increase)			\$0
6.2.b.9 - Investigative costs - (flat monetary increase)			\$0
6.2.b.10 - Other factors (size of violator)		50	(\$41,250)
6.2.b.10 - Additional Other Factors - Increase (flat monetary increase)			\$0
6.2.b.10 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Costs (flat monetary increase)	\$30		\$30
6.2.b.2 - Good Faith - Increase			\$0
6.2.b.2 - Good Faith - Decrease		10	(\$8,250)
6.2.b.3 - Cooperation with the Secretary		10	(\$8,250)
6.2.b.5 - Ability to Pay			\$0
<b>Penalty Adjustments</b>			<b>(\$57,720)</b>
<b>Penalty =</b>			<b>\$24,780</b>

Estimated Economic Benefit Item	Estimated Benefit (\$)
Monitoring & Reporting	
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	
Permit Application or Modification	
Competitive Advantage	
<b>Estimated Economic Benefit</b>	<b>\$0</b>
<b>Comments:</b>	